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July 31, 2025

MEMO ENDORSED

VIA ECF

Honorable Judge Edgardo Ramos
United States District Court
Southern District of New York
40 Foley Square
New York, NY 10007

Re: Jimenez v. Regent Associates, et al.
SDNY Case No.: 1:24-cv-01146

Dear Judge Ramos,

Defendants' request is granted. Defendants are directed to serve their rebuttal expert report by September 1, 2025.

SO ORDERED.



Edgardo Ramos, U.S.D.J.

Dated: August 1, 2025

New York, New York

This law firm represents the Defendants, Home Thread, Inc., and Muhammad U. Andha ("Defendants"), along with our co-counsel, Bashian & Papantoniou, P.C. As the Court may recall, we were substituted in as counsel just over three months ago. Since that time, we have worked diligently to bring this matter into proper procedural order, engaged in discovery, produced Defendants for deposition, and generally worked to move the matter forward in an appropriate fashion.

The current deadline for Defendants to serve their rebuttal expert report is August 1, 2025. *D.E. 52*. An expert was retained promptly upon receipt of Plaintiff's expert report, and that expert visited the property and began work on the rebuttal opinion in a timely fashion; however, to finalize an opinion, the expert concluded that he needs to review certain architectural plans, which Defendants had to obtain from the City. Defendants have just obtained those records from the DOB and they were provided to the expert yesterday. Accordingly, some more time is needed for the expert to finalize his review of the relevant materials and to finalize the rebuttal report. We are respectfully requesting an additional 30 days, through September 1, 2025, to do so. The current fact discovery deadline is September 15, 2025, and so there is ample time to take expert depositions following an extended rebuttal disclosure deadline/, without affecting any other current case management dates or deadlines.

Pursuant to Federal Rule of Civil Procedure 16(b)(4), a scheduling order may be modified for good cause with the court's consent. The primary focus of the good cause inquiry is the diligence of the moving party in attempting to comply with the existing scheduling order. *See, e.g., Nutting v. Zimmer, Inc. (In re Zimmer M/L Taper Hip Prosthesis)*, 2021 U.S. Dist. LEXIS 177530 at *35 (S.D.N.Y. 2021). A finding of good cause depends in large part on the diligence of the moving party. *Parker v. Columbia Pictures Indus.*, 204 F.3d 326, 340 (2d Cir. 2000). Additionally, the court may consider other factors, such as whether the delay was prejudicial to the opposing party, whether the moving party acted in bad faith, and whether the delay can be cured without significant harm to the opposing party. *Fed. R. Civ. P. 37*.

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In this case, the moving party has acted in good faith and has provided a reasonable explanation for the proposed extension to serve the expert report. The needed extension is not caused by bad faith or willfulness. Indeed, Defendants promptly retained an expert upon Plaintiff's service of its expert report, arranged for the expert to inspect the subject property, and upon consultation with the expert, learned that additional documents were needed, which had to be obtained from the DOB. Defendants obtained those additional records from the City promptly, and they were delivered to the expert yesterday. There has been no dilatory, willful, or unreasonable delay, and the request for extension is reasonably necessary. This request is made in good faith, prior to expiration of the current deadline, and the requested extension will not prejudice Plaintiff or require an amendment of any other case management deadlines. Defendants respectfully posit that the requested extension is wholly reasonable and appropriate.

Prior to filing this request, Defendants conferred with Plaintiff. Plaintiff's position on this issue as I understand it (although Plaintiff's counsel will certainly articulate their position for themselves), is that agreement to this extension of time is contingent on (a) providing them with the plans just obtained from the City, and (b) agreeing that Plaintiff can file its own rebuttal expert report after Defendants' rebuttal report. Defendants agree to provide all plans obtained from the City, but cannot agree to the creation of an entirely new category of expert report, which was never previously contemplated, would prejudice Defendants' ability to respond to the facts as Plaintiff posits them (absent yet another rebuttal report thereafter from Defendants), and which would require re-working other case deadlines, including the fact discovery deadline. As such, there is no agreement on this issue.

For the foregoing reasons, Defendants, Home Thread, Inc., and Muhammad U. Andha respectfully request an Order allowing an extension of time for Defendants to serve their rebuttal expert report, through and including September 1, 2025. Thank you for your time and attention to this matter.

Respectfully Submitted,

Law Offices of Nolan Klein, P.A.

By: /s/ Nolan K. Klein

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NKK/amd

cc: Robert G. Hanski, Esq. (via ECF)

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